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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,988	10/20/2000	Frank Robertson Dawson JR.	RSW920000076US1	8088

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EXAMINER

REVAK, CHRISTOPHER A

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/692,988

Applicant(s)

DAWSON ET AL.

Examiner

Christopher A. Revak

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The examiner is withdrawing the objection to claims 1-9, 13, and 27-29 based upon the applicant's amendment.

Response to Arguments

2. Applicant's arguments filed on March 29, 2004 have been fully considered but they are not persuasive.

It is argued by the applicant parts of the specification that which are not claimed as is recited on page 8 of the response. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is additionally argued that Meikle fails to disclose "combining the preexisting content and the new content in a third location for form merged content." The examiner respectfully disagrees for it is disclosed by Meikle of these limitations, please refer to pages 12-13.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1,4,5,9,10,13,18,21,22,26,27,30, and 31 rejected under 35 U.S.C. 102(a) as being anticipated by Hot!NEWstuff: McAfee: Antivirus software for handhelds to Meikle.

As per claims 1, 18, 30, and 31, Meikle teaches a method/data processing system/computer program product for preventing exchange of viruses, comprising: maintaining preexisting content for a device in a first location (the handhelds in Meikle maintain preexisting content which is to be synchronized with the content on a pc); placing new content associated with the device in a second location (the new content is on the pc in Meikle), wherein the new content is an update to the preexisting content (Meikle says that the operation is a synchronization. This constitutes an update to preexisting content); combining the preexisting content and the new content in a third location to form merged content and performing a check for viruses on the merged content prior to performing a transfer of the new content (prior to the completion of the synchronization the pc scans content located on the handheld by uploading it, and then the synchronized merged content is uploaded to the handheld).

As per claims 4, 5, 21, and 22 Meikle further discloses that the product described is intended for devices to include wireless devices such as cell phones (see bottom of

page 12, and top of page 13, in which the need for the product is established in part by the fact that some cell phones have all ready been attacked by a virus).

As per claims 9 and 26, Meikel further teaches that the computer "scans the handheld device when files on the pc and handheld are synchronized." See page 13, first full paragraph.

As per claims 10 and 27, Meikle teaches a method/system in a data processing system for preventing transmission of viruses, comprising the steps of: receiving a request to synchronize a device, (see Meikel page 13, first full paragraph: "scans the handheld device when files on the pc and handheld are synchronized.") As per identifying new content associated with the device, again because Meikel teaches a synchronize process, this constitutes identifying new content associated with the device. As per combining the new content with existing content to form merged content and checking the merged content for viruses prior to synchronizing the device, in Meikel (prior to the completion of the synchronization the pc scans content located on the handheld by uploading it, and then the synchronized/merged content is uploaded to the handheld).

As per claim 13, Meikle teaches a data processing system comprising: a bus system (see Meikel page 13, first full paragraph: "...the antivirus software doesn't yet run on the handheld itself. Instead, it runs only on a desktop computer...") A bus system is an inherent property in a desktop computer. Furthermore, "A memory connected to the bus system," and "a processing unit connected to the bus system", are also inherent properties of a desktop pc. As per maintaining preexisting content for a device in a first

location (the handhelds in Meikle maintain preexisting content which is to be synchronized with the content on a pc); placing new content associated with the device in a second location (the new content is on the pc in Meikle), wherein the new content is an update to the preexisting content (Meikle says that the operation is a synchronization. This constitutes an update to preexisting content); combining the preexisting content and the new content in a third location to form merged content and performing a check for viruses on the merged content prior to performing a transfer of the new content (prior to the completion of the synchronization the pc scans content located on the handheld by uploading it, and then the synchronized/merged content is uploaded to the handheld).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2,3,8,11,12,14-17,19,20,25,28, and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Hot!NEWstuff: McAfee: Antivirus software for handhelds to Meikle.

As per claims 2, 3, 19, and 20, Meikle discloses all limitations of the base claims as discussed above. Furthermore, although not explicitly disclosed in the Meikle teaching, it would have been obvious to one having ordinary skill in the art at the time

the invention was made that this is in fact the normal operating procedure of the McAfee product disclosed, because upon scanning for viruses as disclosed by Meikle the only sensible thing to do in order to prevent virus transmission, (which is clearly the goal in the Meikle disclosure), would be to send the update back to the handheld only if a virus is not present in the merged/synchronized content, where the content would then be stored as the preexisting content.

As per claims 8 and 25, Meikle teaches all limitations of the base claims. Meikle does not explicitly teach wherein the third location is a random access memory in the data processing system. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Meikle such that the content would be merged in the Ram of the data processing system, because RAM is known for its speed and is known to be particularly useful for temporary storage tasks.

As per claims 11, 12, 28, and 29, Meikle teaches that the antivirus method/system performs the scan of content during synchronization (see Meikel page 13, first full paragraph). It is well known in the art that a synchronization between a pc and handheld can be done treating either the pc data as the "new content" thus updating the handheld, or the handheld data as the "new content" thus updating the pc.

As per claims 14 and 15, Meikle teaches the limitations of the base claims. Meikle does not explicitly disclose wherein the bus system includes a primary bus and a secondary bus or wherein the bus comprises a single bus, but only teaches a pc inherently having at least a bus. It is well known in the art that desktop computers may

have a primary and secondary bus, and that the use of one as opposed to the other is an obvious design choice.

As per claims 16 and 17, Meikle teaches all limitations of the base claims, but does not explicitly disclose wherein the processing unit includes a plurality of processors or a single processor, but only discloses a pc inherently having at least a processor. It is well known in the art that desktop computers may have a single processor or multiple processors, and that the implementation of one as opposed to the other is an obvious design choice.

7. Claims 6,7,23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hot!NEWstuff: McAfee: Antivirus software for handhelds to Meikle in view of PC WORLD:Do Handhelds Need Virus Protection? to Silver.

As per claims 6, 7, 23, and 24, Meikle teaches all limitations of the base claims. Furthermore, because (as disclosed by Meikle) the anti-virus software is designed to work on such devices as those running the Palm OS, and Windows CE, its clear that the first location is a hard disk, because the devices that run Palm OS and Windows CE store there data on a hard disk. Meikle fails to teach the hard disk drive being in the data processing system. However, Silver in an analogous art discloses the hard disk drive being in the data processing system as an alternative approach. See page 1, under "Alternative Approaches". It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose any of the approaches (having the hard disk in the data processing system as taught by the McAfee approach according to Silver, or having the hard disk on a remote pc as taught by the Symantec

approach according to Silver) as alternative solutions to scanning handhelds for viruses. This constitutes wherein the first location is a hard disk drive in the data processing system as in claims 6 and 23, as well as wherein the first location is a hard disk in a storage system remote to the data processing system as in claims 7 and 24.

Conclusion

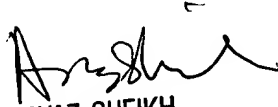
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 703-305-1843. The examiner can normally be reached on Monday-Friday, 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

CR


June 28, 2004